

Misbranding of the article was alleged in the information in that it was food in package form, and the quantity of the contents thereof was not plainly and conspicuously marked on the outside of the package.

On June 7, 1920, the defendant entered a plea of guilty to the information, and the court imposed a fine of \$25 and costs.

E. D. BALL, *Acting Secretary of Agriculture.*

8637. Misbranding of hominy. U. S. * * * v. 100 Cases and 75 Cases of Empson's Hominy. Judgment of dismissal by consent. Product released under bond. (F. & D. Nos. 11910, 11911. I. S. Nos. 2830-r, 2833-r. S. Nos. W-571, W-572.)

On February 5, 1920, the United States attorney for the District of New Mexico, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district libels for the seizure and condemnation of 100 cases and 75 cases, each containing 24 cans, of Empson's hominy, remaining unsold in the original unopened packages at Raton, N. Mex., and Las Vegas, N. Mex., respectively, alleging that the article had been shipped, respectively, by the Southern Colorado Mercantile Co., Trinidad, Colo., October 22, 1918, and the Empson Packing Co., Longmont, Colo., November 26, 1918, and transported from the State of Colorado into the State of New Mexico, and charging misbranding in violation of the Food and Drugs Act, as amended.

Misbranding of the article was alleged in the libel for the reason that each of the cans was labeled "Empson's Ye Olde Fashioned Hominy, Weight of Contents 1 pound 15 ounces," which statements were false and misleading in that they did not correctly state the quantity of the contents therein, such contents being from 7 to 10 per cent less than that marked on the outside of said cans.

On August 20, 1920, the Empson Packing Co., Longmont, Colo., having entered an appearance as claimant of the property, judgment by consent was rendered, and it was ordered by the court that the case be dismissed upon payment of the costs of the proceedings by the claimant and the execution of a bond in the sum of \$500, in conformity with section 10 of the act, conditioned in part that the cans be re-marked so as to show the true weight of the contents thereof.

E. D. BALL, *Acting Secretary of Agriculture.*

8638. Adulteration of tomatoes. U. S. * * * v. 975 Cases of Tomatoes. Consent decree of condemnation and forfeiture. Product released on bond. (F. & D. No. 12177. I. S. No. 9508-r. S. No. C-1756.)

On February 21, 1920, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 975 cases of canned tomatoes, remaining unsold in the original unbroken packages at New Orleans, La., alleging that the article had been shipped by Winfield Webster & Co., Vienna, Md., from Rhodesdale, Md., on or about December 14, 1919, and transported from the State of Maryland into the State of Louisiana, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part, "Blue Dot Brand Tomatoes" (cut of red tomato) "* * * Packed by Winfield Webster & Co., Vienna, Md."

Adulteration of the article was alleged in the libel for the reason that tomato pulp had been mixed and packed with, and substituted wholly or in part for, the article.

On June 3, 1920, Winfield Webster & Co., Vienna, Md., claimant, having entered an appearance and filed its answer to the libel, and the court having given consideration to the same, judgment of condemnation and forfeiture was